

**BEFORE THE APPEALS BOARD
FOR THE
KANSAS DIVISION OF WORKERS COMPENSATION**

ELIDA RODRIGUEZ)	
Claimant)	
VS.)	
)	Docket No. 216,433
BOEING WICHITA CREDIT UNION)	
Respondent)	
AND)	
)	
CUMIS MUTUAL INSURANCE GROUP)	
Insurance Carrier)	

ORDER

Respondent and its insurance carrier appealed the preliminary hearing Order dated March 24, 1998, entered by Administrative Law Judge John D. Clark.

ISSUES

The Administrative Law Judge granted claimant medical benefits for treatment of bilateral carpal tunnel syndrome and ordered temporary total disability benefits paid in the event claimant was taken off work. Respondent and its insurance carrier contend claimant failed to prove the bilateral carpal tunnel syndrome arose out of and in the course of her employment with the respondent. That is the only issue before the Appeals Board on this review.

FINDINGS OF FACT

For preliminary hearing purposes, the Appeals Board finds:

- (1) On September 16, 1994, the claimant, Elida Rodriguez, injured her right shoulder while stacking boxes of paper for the respondent, Boeing Wichita Credit Union.
- (2) Following the shoulder injury and while receiving medical treatment, Ms. Rodriguez continued to work for the Credit Union filming documents. While performing that duty, Ms. Rodriguez developed problems with her wrists and hands that were ultimately diagnosed as bilateral carpal tunnel syndrome. Ms. Rodriguez first noticed symptoms in the right hand and wrist in 1994 following the shoulder injury. But she first noticed symptoms in the left after she ultimately had shoulder surgery in February 1997.

(3) The Credit Union admits the shoulder injury arose out of and in the course of employment but denies the carpal tunnel syndrome did.

(4) Ms. Rodriguez worked for the Credit Union through September 19, 1997. At that time, she began working for the Boeing Company as a material processor. Ms. Rodriguez believes the Boeing job is less strenuous than the work she performed for the Credit Union. When she started at Boeing, her doctors placed medical restrictions upon her activities. She believes her hands and wrists have not worsened since leaving the Credit Union, although she now spends a significant portion of her day entering computer data by keyboard.

(5) At this time, J. Mark Melhorn, M.D., recommends surgery to treat the bilateral carpal tunnel syndrome.

CONCLUSIONS OF LAW

The preliminary hearing Order should be affirmed.

Ms. Rodriguez testified that her hand and wrist symptoms have remained stable since she left the Credit Union. And that her present job is less strenuous than her job with the Credit Union. The Administrative Law Judge had the opportunity to personally observe Ms. Rodriguez testify and assess her demeanor. In this instance, the Appeals Board gives deference to the Judge's determination of Ms. Rodriguez's credibility. The Appeals Board also finds her testimony credible and persuasive.

As did the Administrative Law Judge, the Appeals Board finds Ms. Rodriguez injured her hands and wrists while working for Boeing Wichita Credit Union and that the injury arose out of and in the course of her employment.

WHEREFORE, it is the finding, decision, and order of the Appeals Board that the preliminary hearing Order dated March 24, 1998, entered by Administrative Law Judge John D. Clark is affirmed.

IT IS SO ORDERED.

Dated this ____ day of May 1998.

BOARD MEMBER

c: Chris S. Cole, Wichita, KS
P. Kelly Donley, Wichita, KS
John D. Clark, Administrative Law Judge
Philip S. Harness, Director